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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARK J. CLEAVER, GEORGE R. HULSE,
JOE A. CHAMBERS, and JOHN R. DOMINICK

Appeal 2009-010545
Application 10/771,174
Technology Center 2800

Before, ROBERT E. NAPPI, CARLA M. KRIVAK, and
DAVID M. KOHUT, Administrative Patent Judges.

KOHUT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the final rejection of claims 25-29.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We affirm the Examiner's rejection of these claims.

¹ Claims 1-24 were previously cancelled.

INVENTION

The invention is directed to an illumination device that simulates neon lighting by using high-intensity light-emitting diodes in a flexible leaky waveguide. See Spec: 5-6. Claim 25 is representative of the invention and is reproduced below:

25. An illumination device for simulating neon lighting, comprising:
- a solid rod-like member having a predetermined length with a light-receiving surface and a light-emitting surface, said rod-like member being composed of a substantially flexible compound;
 - a flexible circuit board received in said rod-like member;
 - a multiplicity of spaced point light sources arranged in a line along said flexible circuit board and extending substantially along the light-receiving surface of said rod-like member, such that light entering the rod-like member from said point light sources and through the light-receiving surface is preferentially scattered, with light being directed along the predetermined length of said rod-like member while also being urged out the light-emitting surface of said rod-like member, thus causing a light intensity pattern that appears substantially uniform along the light-emitting surface of said rod-like member; and
 - a collection surface positioned near said point light sources for collecting and reflecting light not emitted directly into said rod-like member.

REFERENCES

Blanchet	US 4,811,507	Mar. 14, 1989
Sugiyama	US 5,982,969	Nov. 9, 1999
Wynne Willson	US 6,676,284 B1	Jan. 13, 2004

REJECTIONS AT ISSUE

Claims 25 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wynne Willson. Ans. 3-5.

Claim 26 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Wynne Willson in view of Sugiyama. Ans. 6.

Claims 28 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wynne Willson in view of Blanchet. Ans. 6-7.

ISSUE

Appellants argue on pages 9-12 of the Appeal Brief that the Examiner's rejection of claims 25-29 is in error. Appellants select claim 25 as representative of the group comprising claims 25-29. App. Br. 9. Appellants argue that Wynne Willson does not disclose a "solid rod-like member composed of a substantially flexible compound, as recited in claim 25." App. Br. 10.

Thus, with respect to claims 25-29, Appellants' contention presents the issue: Did the Examiner err in finding Wynne Willson discloses a solid rod-like member composed of a substantially flexible compound?

ANALYSIS

Appellants' arguments have not persuaded us of error in the Examiner's rejection of claim 25. Claim 25 requires a solid rod-like member that is composed of a substantially flexible material. The Examiner finds that Wynne Willson's diffuser 2 is the same as Appellants' solid rod-like member. Ans. 4 and 7. Appellants argue that Wynne Willson's tubular, i.e., "tube-like," diffuser is not solid since the term tubular indicates hollow.

App. Br. 11. However, as correctly noted by the Examiner on page 8 of the Answer, Appellants' claim 25 further recites that a flexible circuit board is placed into the rod-like member. Thus, as indicated in Appellants' Figures 3 and 6-8, Appellants' invention contains a channel 118 within the solid rod-like member. As such, Wynne Willson's solid tubular diffuser that contains a cavity used to receive a light source is the same as Appellants' solid rod-like member that contains a channel used to receive a light source. Thus, Appellants' argument is not persuasive.

Additionally, Appellants argue that Wynne Willson's diffuser is made of a rigid material that is exactly the opposite of a flexible compound. App. Br. 12. However, the Examiner finds that Wynne Willson discloses that the rod-like member can be formed of either a flexible or a rigid material. Ans. 7. Additionally, we note that column 6, lines 47-53, of Wynne Willson indicates that the diffuser can be deformed into a desired shape. Thus, because Wynne Willson teaches the diffuser is made of a flexible compound, Appellants' argument is not persuasive.

For the reasons stated *supra*, we sustain the Examiner's rejection of claim 25 and claims 26-29 that have been grouped with claim 25.

CONCLUSION

The Examiner did not err in finding Wynne Willson discloses a solid rod-like member composed of a substantially flexible compound.

SUMMARY

The Examiner's decision to reject claims 25-29 is affirmed.

Appeal 2009-010545
Application 10/771,174

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136 (a)(1)(iv).

AFFIRMED

ELD